

(e) The Department shall designate a brownfield in accordance with the requirements at N.J.A.C. 7:38-6.6.

(f) No person shall undertake a major Highlands development without first obtaining a Highlands Preservation Area Approval (HPAA) from the Department in accordance with N.J.A.C. 7:38-6. An application for a HPAA shall include any application for waiver of a HPAA requirement under N.J.A.C. 7:38-6.4 the applicant may decide to submit.

(g) For all decisions in or affecting the planning area or the preservation area, the Department shall give great consideration and weight to the RMP, to be incorporated by reference in (l) below, when adopted by the Highlands Council, and shall apply this in accordance with (h), (i), (j) and (k) below.

(h) For the planning area, when consistent with its statutory and regulatory authority, the Department shall not issue any approval, authorization or permit that the Department determines, in consultation with the Highlands Council, to be incompatible with the resource protection goals in the RMP to be incorporated by reference in (l) below, when adopted by the Highlands Council.

(i) In its review of permits or approvals under this chapter in the preservation area, the Department shall apply the standards of this chapter and those in the RMP, to be incorporated by reference in (l) below, when adopted by the Highlands Council. Where the Department, in consultation with the Highlands Council, determines there is an inconsistency in the standards, the Department shall apply the Regional Master Plan standards insofar as they are:

1. Consistent with the purposes of the Highlands Act to sustain and maintain the overall ecological values of the ecosystem of the Highlands Region with special reference to surface and ground water quality and supply; contiguous forests and woodlands; endangered and threatened animals, plants, and biotic communities; ecological factors relating to the protection and enhancement of agricultural or horticultural production or activity; air quality; and other appropriate considerations affecting the ecological integrity of the Highlands Region; and

2. Based on, comply with, and implement the environmental standards set forth in N.J.S.A. 13:20-32.

(j) For both the planning area and preservation areas, the Department shall give great consideration and weight to the RMP, to be incorporated by reference in (l) below, in making permit decisions that:

1. Provide relief from strict compliance with the standards of the applicable permit programs, such as making a determination of public benefit or hardship waiver from certain Departmental permits; or

2. Provide relief through the issuance of an HPPA with waiver under this chapter.

(k) For both the planning area and preservation areas, the Department shall review the Highlands Council regional master plan and consider amending the appropriate areawide Water Quality Management Plans to maintain consistency with the regional master plan. The Department shall approve a Water Quality Management Plan amendment only after receiving from the Highlands Council a determination of consistency with the Regional Master Plan to be incorporated by reference in (l) below, when adopted by the Highlands Council. Pending completion of the Regional Master Plan, the Department shall not approve a Water Quality Management Plan amendment for a project proposed in the planning area or preservation area without first obtaining a recommendation from the Highlands Council.

(l) The Regional Master Plan shall mean the standards established in the Regional Master Plan adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8, including all goals, requirements, provisions, and any municipal master plans and development regulations or county master plans and associated regulations that have been formally approved by the Highlands Council pursuant to the Highlands Act. The Regional Master Plan shall be incorporated by reference into this chapter, when adopted by the Highlands Council pursuant to N.J.S.A. 13:20-8, provided the Department does not determine such incorporation is inconsistent with the purposes of this chapter. The incorporation by reference shall include all amendments to the Regional Master Plan subsequently adopted by the Highlands Council. The Regional Master Plan will be available on the Highlands Council's website at [www.highlands.state.nj.us](http://www.highlands.state.nj.us) or may be reviewed at the Department or at the Highlands Council at the addresses at N.J.A.C. 7:38-1.2.

Amended by R.2006 d.420, effective December 4, 2006.

See: 37 N.J.R. 4767(a), 38 N.J.R. 5011(a).

Rewrote (a); in (b), substituted "preservation area" for "Preservation Area"; and added (g) through (l).

### 7:38-1.2 Forms and information

(a) Forms or other information related to the Highlands permitting review program may be obtained as follows:

1. Applications, form letters for notification and information relating to exemptions and determinations of applicability of these rules to specific projects or activities may be found at the Division of Watershed Management website at [www.nj.gov/dep/watershedmgt](http://www.nj.gov/dep/watershedmgt) or obtained from the Division of Watershed Management at:

Division of Watershed Management  
New Jersey Department of Environmental Protection  
PO Box 418  
401 East State Street  
Trenton, New Jersey 08625-0418  
(609)-984-0058

2. Applications and form letters for public notification related to HPAA's and waivers may be found on the Land

Use Regulation Program's webpage at [www.state.nj.us/dep/landuse](http://www.state.nj.us/dep/landuse) or obtained from the Land Use Regulation Program at:

Land Use Regulation Program  
New Jersey Department of Environmental Protection  
PO Box 439  
Trenton, New Jersey 08625-0439  
Phone: (609) 984-0194  
Fax: (609) 292-8115

i. Courier and other hand deliveries shall be delivered to:

Land Use Regulation Program  
New Jersey Department of Environmental Protection  
5 Station Plaza  
501 East State Street  
Trenton, New Jersey 08609

3. Information and forms relating to NJPDES permits and treatment works approvals may be found on the Division of Water Quality webpage at [www.state.nj.us/dep/dwq](http://www.state.nj.us/dep/dwq) or obtained from the Division of Water Quality at:

Division of Water Quality  
New Jersey Department of Environmental Protection  
PO Box 029  
Trenton, New Jersey 08625-0029  
Phone: (609) 292-4543  
Fax: (609) 984-7938

4. Information and forms relating to Water Allocation and Safe Drinking water may be found on the Division of Water Supply web page at [www.nj.gov/dep/watersupply](http://www.nj.gov/dep/watersupply) or obtained from the Bureau of Water Allocation or Bureau of Water Systems and Wells at:

Division of Water Supply  
New Jersey Department of Environmental Protection  
PO Box 426  
Trenton, New Jersey 08625-0426  
Phone: Bureau of Water Systems and Wells (609) 292-2957  
Phone: Bureau of Water Allocation (609) 292-2957

5. Information and forms relating to the Natural Heritage Program may be found on the Division of Parks and Forestry web page at [www.nj.gov/dep/parksandforests/natural/heritage](http://www.nj.gov/dep/parksandforests/natural/heritage) or obtained from the Office of Natural Lands Management, Natural Heritage Program at:

Division of Parks and Forestry  
New Jersey Department of Environmental Protection  
PO Box 404  
Trenton, New Jersey 08625-0404

Phone: (609) 984-1339  
Fax: (609) 984-1427

6. For information or to contact the Highlands Water Protection and Planning Council:

New Jersey Highlands Council  
100 North Road, Route 513, Chester, New Jersey 07930  
Phone: 908-879-6737  
Fax: 908-879-4205

Amended by R.2006 d.420, effective December 4, 2006.

See: 37 N.J.R. 4767(a), 38 N.J.R. 5011(a).

In (a)4, substituted references to the Bureau of Water Systems and Wells for references to the Bureau of Safe Drinking Water and changed the phone number.

### 7:38-1.3 Other statutes and regulations

(a) This chapter consolidates aspects of, but does not supersede, the following statutes and any rules adopted pursuant thereto:

1. The Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq.;
2. The Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq.;
3. The Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.;
4. The Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.;
5. The Realty Improvement Sewerage and Facilities Act (1954), N.J.S.A. 58:11-23 et seq.;
6. The Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.;
7. The Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.; and
8. The Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq. For the purposes of this section, the provisions of N.J.S.A. 13:1D-29 et seq. shall not apply to an application for a permit pursuant to the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.

(b) This chapter shall not be construed to limit, alter or eliminate the requirements of any other applicable Federal, State or local laws, rules, regulations, codes or ordinances.

(c) If any section, part, phrase, or provision of these rules or the application thereof to any person is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, phrase, provision or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the validity of the remainder of these rules or the application thereof to other persons.